

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

UNPUBLISHED
February 5, 2015

v

LORINDA IRENE SWAIN,

No. 314564
Calhoun Circuit Court
LC No. 2001-004547-FC

Defendant-Appellee.

Before: STEPHENS, P.J., and HOEKSTRA and METER, JJ.

STEPHENS, J. (*concurring*).

I concur in the majority's result and analysis as to the issues of newly discovered evidence and a *Brady* violation. I concur in the result only as to the actual innocence claim because while I agree there is no authority for an independent actual innocence standard in Michigan, I believe the proofs in this case are such that under a *Swain*, 288 Mich App at 638, standard, this case is one in which it is more likely than not that no reasonable juror would have found the defendant guilty. This case is already one with recantations and inconsistencies which, with the testimony of Book, would be one where a guilty verdict would more likely than not be rendered by a reasonable jury.

/s/ Cynthia Diane Stephens